

Practitioner's Docket No. U 013579-0**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: ISRAEL RUBINSTEIN, et al

Serial No.: 09/922,220

Group No.: 1743

Filed: August 3, 2001

Examiner: Lyle Alexander

For: METHOD AND APPARATUS FOR DETECTING AND QUANTIFYING A
CHEMICAL SUBSTANCE EMPLOYING AN OPTICAL TRANSMISSION
PROPERTY OF METALLIC ISLANDS ON A TRANSPARENT SUBSTRATE

Mail Stop Patent Office
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Declaration Under 37 CFR § 1.132

1. I, Israel Rubinstein, declare as follows.
2. I hold a Ph.D. degree in Chemistry from Tel-Aviv University, Israel awarded in 1980.
3. Since 1998 I have worked continually in the field of chemical sensors design, and since 1983 I have been employed by Weizmann Institute of Science as a faculty member (Full Professor since 1996).
4. I have reviewed US patent 5,866,433 and publication "Detection of fluorophore-labelled antibodies by surface enhanced fluorescence on metal nanoislands", SPIE Vol. 2976, pp 129-136, 1997.
5. I am familiar with the specification and drawings of the US patent application 09/922,220.
6. I have reviewed the US Patent Office Actions in this US patent application 09/922,220.

7. I consider that in those cases where the Examiner has "read the fluorescence on the claimed emitted light", such interpretation is incorrect.

This is due to the fact, that the pending claims recite that the emitted light is produced by a **transmitter**. This term was generally known in the art at the filing date of the US patent application 09/922,220, and its meaning is sufficiently clear from this patent application. One skilled in the art would not identify in fluorophor molecules of the cited references a "transmitter". One skilled in the art would not confuse fluorophor molecules of the cited references and the transmitter constructionally and functionally described in the present patent application.

Accordingly, there was no reason apparent to one skilled in the art as of the filing date of the US patent application 09/922,220 to read fluorophor molecules discussed in the US patent 5,866,433 and publication "Detection of fluorophore-labelled antibodies by surface enhanced fluorescence on metal nanoislands", SPIE Vol. 2976, pp 129-136, 1997 on the transmitter recited in claims of the US patent application 09/922,220.

8. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: October 2, 2007

Signature: *J. Robbins*